ARTICLES CONCERNING THE AUTHORITIE OF JUSTICES OF Peace and Conſtables, eſtabliſhed within the Kingdome of SCOTLAND.

Allowed, and ſince enlarged be his Majeſtie, with adviſe of the Lords of his Highnes Privie Counſell of the ſaid Kingdome, the xvj day of Iulie, 1612.

EDINBURGH,

INSTRVCTIONS TO THE COMMISSIONARS APPOINTED

for keeping of the Kings Majeſties Peace.

THE COMMISSIONARS and IVSTICES of Peace at their firſt admittance vpon the Benche, ſhall giue the Oath following;

YOW *ſhall ſweare that you as one of the* Commiſſionars *and* Juſtices *of the Peace, within the Shyre of, &c. according to your knowledge, witt and power, ſhall doe equall right both to ritch and poore conforme to the Lawes and Cuſtomes of the Land and ſtatutes thereof: And that you ſhall not be of counſell with any perſon in any quarrell or matter depending before you, and that you ſhall euery quar-*

ter keepe the Seßions, or oftner as you shall be requyred, no: hauing any juſt impediment to the contrarie; and shall faithfullie and truelie diſcharge your duetie as a Juſtice of his Majeſties Peace, and shall leaue nothing vndone that may tend to the preſervation of the ſame, So helpe you GOD.

II.

ANY one Juſtice ſhall haue power vpon complaint of any perſon being threatned and fearing to be wronged, to bind the partie complained vpon vnder ſuch a pecuniall ſumme to keepe the Peace as he ſhall think fitting: As alſo to commit him vntill ſuretie be founden by him, (the ſaid complenant alwayes giuing his oath before the Juſtice that he hes juſt cauſe to dread him harme) and all ſuch actes and boundes ſhall be keeped in recorde by him, and he ſhall make delyverie of the ſame to the Clerk of the Peace at the next Seſſions to be keept and regiſtrat by him.

III.

If any perſon being charged to make his appearance before a Juſtice of Peace, and ſhall refuſe or delay without juſt cauſe: If the partie be a landed Gentle-man, then the Juſtice whoſe command is contemned ſhal informe the ſame to ſome of the Lords of his Majeſties privie Councell, to the effect the partie of the qualitie foreſaid may be called and fyned for his diſobedience. And if the diſobeyar be of a meaner degree, the Juſtice ſhall hereby haue power to command the next Conſtable with aſſiſtance of the Countrie to bring any ſuch partie before him.

IIII.

If either Schiref or Baillie ſhall condemne any perſon in a *Blood wyte*, or otherwyſe convict him in any paine proper for him to impone, the Juſtices ſhall haue no power of new to fyne that offender for that offence, but if they ſhall finde the partie not condinglie puniſhed, in regarde of the offence committed

mitted, they ſhall then informe his Majeſties Councell thereof.

V.

If either Schiref or Baillie, or other deputes by colluſion with the delinquent ſhall ſuffer any perſon guiltie to be quyted and cleared by aſſiſe (the partie once cleared is not to be broght farther in queſtion before the Juſtices) but vpon their information the Iudges are to be called, cenſured, and ſevearlie puniſhed by his Majeſties Councell.

VI.

The ſaids Iuſtices ſhall hereby haue power to proceed in tryall vpon all perſons committing ryottes and breaking of the Kings peace, vnder the degree of Noble-men, Prelats Counſellers and Senators of the Colledge of Iuſtice, and to puniſh and fyne according to the qualitie of the cryme and eſtate of the offender. And concerning theſe perſons of heigher degree, the ſaids Commiſſionars and Iuſtices ſhall vſe all their power conforme to their commiſſion and inſtructions for preventing and ſtaying of the ryottes; commanding the attempters in his Majeſties Name to ceaſe and to finde caution for keeping of the peace, and for their appearance before his Majeſties Councell.

VII.

The ſaids Commiſſionars and Iuſtices ſhall put his Majeſties actes of Parliament to due and full execution againſt maſterfull beggers and vagabounds, ſolitarie and ydle men and wemen, lurking in ail-houſes, tyed to no certaine ſervices, deſigned, reput and halden as vagabounds, and they ſhal puniſhe and fyne their reſetters accordinglie by competent paines.

VIII.

The Commiſſionars and Iuſtices of peace are hereby authorized with power and authoritie to giue order (according as they ſhall thinke moſt convenient, and with leaſt greefe to the ſubjectes) for mending of all hie wayes and common paſſages to or from any market townes within that Shyre; and ſhall call

before

before them all ſuch perſons as ſhall ſtrate thoſe paſſages, or otherwyſe ſhall make thoſe hie wayes by any caſting of ditches or fouſſies through the ſame, to be in any ſort noyſome and troubleſome to paſſingers, and ſhall puniſhe and fyne them according to the qualitie of their offences.

IX.

The ſaids Commiſſionars and Juſtices of Peace ſhall put his Majeſties actes of Parliament to execution againſt the committers and deſtroyers of Planting, Green-wood, Orchardes, Yairds, Hainnings, breakers of Dowcats and Cunninghares, ſteillers of Bees and Bee-skeps, vſers of vnlawfull games with lying dogs, ſlayers of black fiſhe, and other fiſhe in forbidden tyme, fowllers fowlland in other mens lands, makers of mureburne and moſ-burne in forbidden tyme, and ſhall ſit determine and proceed againſt them, conforme to the ſaids actes.

X.

The ſaids Commiſſionars and Juſtices ſhall put the actes of Parliament to execution againſt foreſtallers and regraters of markets, and ſhall proceed againſt them accordinglie.

XI.

Becauſe there are ſundrie vnneceſſarie ail-houſes in the Countrie, whilks are the reſet of ſundrie maſterles men and rebelles at the Horne, and others perſons guiltie of divers crymes and are the cheefeſt occaſion of the ſtouthes, reiffes and pykrie committed alſwell in the day as night vpon his Majeſties good ſubjectes travelling in the Countrie. The ſaids Commiſſionars and Juſtices ſhall take order with them, and miniſter juſtice vpon them conforme to the Lawes of the Realme.

XII.

Whereas the workmanſhip of ſundrie Craftſ-men in burgh or landward is neither ſufficient, nor doth it keepe any conſtant and reaſonable pryce, that ſo the Craftſ-men may ſell with advantage eneugh, but they exact of the Leiges what they pleaſe.

There-

Therefore the ſaids Commiſſionars of the Peace hes power hereby to take order therein and redres the ſame as records.

XIII.

The Commiſſionars and Juſtices of Peace ſhall put his Majeſties acts of Parliament made againſt Malt-makers, whereby they are ordeined to put their malt to the market, and to ſell the ſame at the tymes preſcryved in the ſaids actes, and that their malt be ſufficient ſtuffe, and anent the pryce of their malt, to due and full execution in all poyntes conforme to the tennor thereof, and accordinglie to puniſhe the tranſgreſſers and violaters of the ſaids actes.

XIIII.

The ſaids Commiſſionars and Juſtices of Peace ſhall put his Majeſties actes of Parliament to execution againſt ſetters of Cruves and Netts in dammes & waters, hauing and keeping of Cruves, Yares, ſlayers and deſtroyers of reed-fiſhe and ſmoltes in forbidden tyme, and to proceed againſt them accordingly.

XV.

The ſaids Commiſſionars ſhal put his Majeſties act of Parliament to execution anent Meaſures, Weghtes and Metts, and conformitie thereof.

XVI.

The Commiſſionars and Juſtices of Peace ſhall according to their diſcretions appoynt pryces to be tane for any horſe or man for their paſſage over any Ferry in that Countie, and ſhall call and puniſhe all contraveinars.

XVII.

They ſhall take order that all Lipper-folkes ſhall be ſequeſtrat and not ſuffered to haue reſet in any publict company, and ſhall ſet down order for their intertainment, to be levayed out of the Countrie in ſuch forme as they thal think meet with leaſt greeſe and harme to the ſubjects.

XVIII.

They ſhall ſet down order for governance in time of Plague and

and to puniſh ſeveirlie the diſobeyers according to the qualitie of the delict.

XIX.

They ſhall appoynt at their quarter Seſſions to be keept in *Auguſt and Februar*, the ordinare hyre and wages of laborers, workmen and ſervants, and who ſhall refuſe to ſerue vpon the pryce then ſet down by them, ſhall be impriſoned, and farther puniſhed at the Iuſtices diſcretions.

XX.

The Commiſſionars and Iuſtices of peace in every countie at their quarter Seſſions, ſhall reſolue what number of Iayles or Priſons are fit and neceſſare to be in that Schyre, and the beſt and moſt commodious places for the ſame, and where either theſe Iayles be preſentlie wanting, or otherwyſe not ſufficient eneugh for conteining of priſoners, and ſo requiring to be builded, or otherwiſe to be enlarged & amended, they ſhal conclude and reſolue vpon a certain ſumme of money, which may fullie perfite and accompliſhe theſe workes, and then by diſtribution thereof according to their diſcretions, ſhall rate every ſufficient perſon within the ſame ſhyre, either in land or goods to a certaine proportion of money, for building, enlarging or helping of the ſaids priſons and Iayles, according to their means and habilities; and ſhall appoynt collectors for ingaddering of the ſame, of whom they ſhall take goode-ſureties for making due accompt and payment, and ſhall appoynt two or three of their owne number dwelling moſt neere to the place where the ſaids priſons are to be builded or repared, to haue the direction or charge of the ſaids workes, who vpon finiſhing thereof ſhall deliver in their accompts of the deburſings to the whole Bench at their next ſitting. And for recoverie and vp-lifting of all ſuch ſummes that every one ſhall be aſſiſed vnto, The Lords of his Majeſties Councell and Seſſion ſhall direct ſummar charges of horning and poynding at the inſtance of ſuch as ſhall be appointed

pointed collectors by the saids Justices.

XXI.

And because there be a great many prisoners apprehended and committed, who hauing no meanes of their owne for their maintenance and entertainment, will otherwise sterue and famishe before they can come to their tryell, who not the lesse in regarde of the crymes they haue committed, can no way be put vnder suretie, or otherwise in faults of lesse consequence are vnable to finde sufficient caution to be made forth-comming and answerable at the next Session. Therefore it shall be lawful to the saids Commissionars and Justices at their quarter Sessions to rate every Paroche within the Shyre for a weeklie proportion for the entertainment of those poore prisoners, provyding they doe not exceed the summe of fiue shilling Scottes money at most, nor vnder one shilling at least; which summes shall be vp-lifted for that vse by the Minister or Reader, who shall serue at every Paroche, from such Deacons wha shall be appoynted to collect the same, and the saids summes to be delivered by the Constable of the Paroche at the quarter Sessions in presence of the whole Benche then conveined to such persons as the saids Justices shall trust there with, and who accordingly shall make dew accompt thereof in paying the Jaylers such rates as shall be allowed for the poore prisoners, and in making the rest forth-comming for such vse and intent of the lyke nature, as the saids Justices shall appoint.

XXII.

All Magistrates of Burrowes and keepers of any Jayles or Prisons, shall receaue in their prisons all such persons as either shall be broght by Constables, or sent vnto them by warrants, vnder the hand of any one Justice of peace.

XXIII.

The Commissionars and Justices of peace shall hereby haue power to punish according to their discretions all delin-

quents vpon any of the penall ſtatutes before rehearſed, they being firſt tryed by a condigne aſſiſe of xiij or xv perſons, and found guiltie, and are to impoſe ſuch puniſhments as in their judgment the qualitie of the treſpaſſe ſhall deſerue. But in all matters capitall they ſhall no way proceed without a ſpecial direction and commiſſion ſent from the Councel to them, or any of them for that effect.

XXIIII.

They ſhall appointe a ſufficient collector for vp-lifting the fynes and penalties which ſhall be impoſed vpon any offender and are to take caution of him for making due accompt.

XXV.

The ſaids fynes are to be made forth-comming, either to his Majeſties vſe, or to ſuch Lords of Regalitie, or other Lords Prelats or ſmall Barons, as by their infeftment and heritable rights can juſtlie challenge or clame any right to the ſame.

XXVI.

The Commiſſionars and Iuſtices of Peace, induring the tyme of their Seſſions, ſhall haue for everie day of their aboad, (ſo it doe not exceed the number of three dayes at the moſt at one tyme) allowed to each of them fourtie ſhillings Scots money daylie, to be vp-lifted and payed by the collector of the fynes; but neither Earle, Biſhoppe, Lord, Privie Counſeller, or Seſſioner ſhall haue any allowance; and all ſuch Juſtices as haue the benefite of that allowance, and ſhall be abſent from every ordinare quarter Seſſions, or when otherwyſe he is lawfullie requyred by the *Cuſtos Rotulorum* to any particular meeting ſhall incurre the penaltie of fourtie pounds Scots money, not being lawfullie excuſed, and the excuſe allowed by the reſt of the Juſtices there aſſembled.

XXVII.

It is alwayes conſidered that theſe allowances to the Commiſſionars of the Peace, ſhall be ratablie vp-lifted of all fynes

fynes impoſed by them accreſſing alſwell to his Majeſtie as to any other Lord or ſmall Baron what ſomever.

XXVIII.

The Lords of Seſſion ſhall direct generall and ſummar charges of horning and poynding, at the inſtance of the Collector appoynted in every Countie, for ingaddering of all fynes and penalties what ſomever incurred, vpon ane ſimple charge of fiftene dayes.

XXIX.

The Commiſſionars and Iuſtices at the end of every quarter Seſſion ſhall ſend to his Majeſties Councell a Catalogue of all ſuch perſons as they haue either committed, or otherwyſe put vnder ſuretie, with a ſhort abreviat of the cauſe thereof, to the effect that there-vpon the Councell as they ſhall thinke meet, may returne vnto them againſt their next Seſſions, or to the *Cuſtos Rotulorum*, in the meane whyle their farther direction.

ANENT CONSTABLES AND THEIR OFFICES.

THE Constables are to be made choise of by the Commissionares and Justices of Peace in their quarter sessions through out the whole Countrie, two at least in every Paroche, or moe according to their discretions, hauing consideration of the qualitie therof. In great townes lykwyse (not being Citties nor free Burghs) they are to appoynte the number of Constables proportionallie to the greatnes therof; but in all Burghs Regall and free Citties, the Constables are to be chosen by the Magistrates of the same, and they are to indure, and to be changed from sax moneths to sax moneths.

II.

Any who shal refuse to accept the charge, and not to giue his oath for duetiful execution therof, shal be imprisoned and fined at the discretion of the Iustices of peace at their next sitting.

III.

The Constables shall take the Oath following.

YOV shall sweare, that you shall faithfullie and truelie discharge your office of Constabulary within the Parochin of, &c. induring the tyme appoynted to you, and shall not for fauour, respect or feare of any man, forbeare to doe what becommeth you of your office; and aboue all things you shall regarde

regarde the keeping and preſeruing of the Kings Majeſties Peace; and ſhall at everie quarter Seſſions and meetings of Juſtices giue true and due information of any breach which hes bene made of his Majeſties Peace, within the boundes of your commandement, and ſhall no way hyde, cover nor conceale the ſame, nor any of the proofes and evidences which you can giue for the clearing and prouing thereof, So helpe you GOD.

IIII.

Any of his Majeſties ſubjects wha ſhall refuſe or delay to concure with the Conſtable in executing of his office, ſhall be impriſonned and puniſhed by the Commiſſionars and Juſtices or otherwyſe cenſured and ſeverelie puniſhed by his Majeſties Councell according to the qualitie of the offence.

V.

All the Conſtables, at the leaſt one of every Paroche, inſtructed with commiſſion to anſwere for the reſt within the ſame Paroche ſhall attend at every quarter Seſſion, there to giue information of all ſuch miſdemanors as haue hapned in thoſe bounds ſince the laſt ſeſſion, and otherwiſe to giue to the Bench farther ſatisfaction in any thing wherein they ſhal be required, and to receaue from the ſaids Commiſſionars at the end of the Seſſions ſuch orders and directions as they ſhall then enjoyne and appoynt them to doe.

VI.

A Conſtable may apprehend any ſuſpect man, who for the moſt part ſleepeth al day and walketh in the night, aud cary him to the next Iuſtice of peace, to finde ſovertie for his good behaviour, or otherwiſe to be committed to priſon.

VII.

A Conſtable ſhall arreiſt any perſon (other then ſuch who in

in regarde of their office and charge are authorized to doe the ſame) who ſhal be found wearing Hagburs, Piſtolets and Dags and ſhall carie them before a Commiſſionar of Peace, who is either to take ſueretie for their appearance the next Seſſion, or commit them priſoners vntill they doe the ſame.

VIII.

If any partie doe complaine to a Conſtable that he is threatned by an other, then ſhall the Conſtable apprehend the threatner, and cary him with the partie complenant before the next Commiſſionar of Peace; and if he refuſe to goe, then ſhal they cary him to priſon.

IX.

Vpon appearance of any fray or ſtur betwix parties, the Conſtable may take vnto him the aſſiſtance of his neigbours for ſundering of the parties. And if there be any harme done to the Conſtable, or any of his aſſiſtances by them who made affray, they ſhall be puniſhed by the Juſtices at the next ſitting.

X.

When one hath made an affray, and then fleeeth to an houſe, the Conſtables may break open the doores thereof; and albeit he ſhuld flee farther without the bounds of his charge, yet may the Conſtable follow and apprehend him in a freſh perſute

XI.

Conſtables ſhall ſtay and arreiſt all vagabounds, ſturdie beggers and Egiptians, and cary them before the next Commiſſionar of Peace, who ſhall take order for their committing or puniſhment, according to ſtatute of Parliament.

XII.

Conſtables ſhall arreiſt all ydle perſons whom they know to haue no meanes to liue vpon, and yet will not be-take themſelues to any labor, trade or occupation, and ſhall cary them before a Commiſſionar of Peace, who after examination, ſhall either commit them to take ſurety of them for their appearance

at

at the next Seſſions.

XIII,

Any Conſtable hauing apprehended a perſon guiltie and culpable of ſlaughter, murther, thift, or any other capital cryme what ſo ever, ſhall then requyre his neighbours to aſſiſt for ſaif convoying of ſuch perſons to the next Commiſſionar, who ſhall then examine the partie, and ſet downe his depoſition in wryting to be ſhowne at the next Seſſions, and thereafter ſhall ſend him ſaiflie back to priſon. And if ane Noble-man, Prelat or ſmall Baron, or any in their names hauing power, ſhall acclame the right of juriſdiction to proceed againſt the delinquent. The ſaid Juſtice ſhall receaue ſuretie of the ſaid partie who requyreth the defender to be delyvered vnto him, that juſtice ſhall be duelie miniſtred, and cauſe delyverie of the ſaid perſon be made vnto him. Alwayes the ſaid Commiſſionar of Juſtice, at the next Seſſions ſhall certifie the haill matter to the Benche, to the effect they may inquyre whither juſtice hes accordinglie bene miniſtred; and if any fault be founden, to advertiſe his Majeſties Councel that order may be taken there-with.

And ordeins the premiſes to be publiſhed in Print.

FINIS.

Apud Edinburgh decimo-sexto die mensis Julij 1612.

CERTAINE ARTICLES, MADE AND SET DOVN BE THE KINGS Maiestie, with advise of the Lords of *his Highnes Privie Counsell, concerning the* authoritie of the Iustices of Peace, within this Kingdome: whilks articles his Majestie, with advise forelaid; ordeins to be insert and Registrat in the bookes of Privie Counsell, to haue the strenth and effect of Acts of Counsell in all tyme comming.

Of the whilks the tenour followes.

THE KINGS MAJESTIE, with advise of the Lords of his privie Counsell, Ordeins that all Iustices of peace alswel to Bourgh as Land sal convein and be present, at the quarter sessions of the shyre where the bourgh & land lyes; giue their oath to the Benche at their admission, make their recordes, and make compt and payment of the fynes intrometted with be them as Iustices of peace, to the Bench of that shyre and to

their Collector.

II.

His Majeſtie with adviſe foreſaid declares, that foure Iuſtices of peace ſhalbe ane full numer and ſeſſion, to decide in matters occurring betwix the foure quarter ſeſſions.

III.

Item that all perſons whoſe yeerlie rent, is within ane thouſand markes of ſilver, or Ten chalders of wictuall, ſhalbe halden to compeir befoir any ane Iuſtice of peace, to anſwer and be examined vpon their miſ-demanour. They being ſend for and requyred to that effect,

IIII.

Item that commiſſions be granted be his Majeſtie, to the Iuſtices of peace, againſt ſlayers of black-fiſh: In the tryell wher of they ſall proceed be witneſſe, or oath of partie, and the puniſhment to be inflicted be them ſhalbe ane pecuniall ſowme, anſwerable to the circumſtance of the offence, and qualitie of the offender. (With this prouiſo alwayes) that the commiſſions be not extended to any perſons who ſhalbe arreſted and conveined befoir ony vther ordinar Iudge, for the ſaids crymes.

V.

His Majeſtie with adviſe foreſaid, Ordeins that na Iudges within this Realme, (except the Lords of privie Counſell and Seſſion,) ſhall Iudge and determine vpon the particular Acts vnder-written ſet doun bee the Iuſtices of peace. *viz.* Anent the fees of laborers, ſeruands, and ſcherars. Anent the pryces of Craftes-mens wark. Anent the ordinare at penny brydels. Anent the recepters of vagabounds. Anent the ſetters of houſes to Idle perſons without any certaine trade, calling or occupatioun. Anent commoun and notorious Drunkards.

VI.

Anent the interteining of poore miſerable priſoners cõmitted to ward be the Iuſtices of peace. IT is ordeined that the

Box-

Box-maiſter in euerie paroche ſhalbe haldin to pay the ſowme ſet down in the former articles made heiranent, according to the diſcretion of the Iuſtices, and letters of horning ſhall be direct againſt him for that effect.

VII.

Item that all Magiſtrats within bourgh ſhalbe haldin to receiue from the Iuſtices of peace, all ſick priſoners as ſhalbe directed from the ſaids Iuſtices vnto them; (with this proviſo) that where the priſoners hes not of their awne to make their charges, The Iuſtices of peace ſhall releue the bourgh of their charges, be giuing vnto them allowance furth of the reddieſt of the contribution aboue-written.

VIII.

In the tryall of the contravention of the pœnall ſtatutes, whereof the paine is pecuniall and not corporall: and the tryall not appointed be the Lawes of this Realme to be by ane aſsiſe, that the Iuſtices of peace ſhall proceid in their tryall be confeſſioun of partie, oath of veritie, or be witneſſe.

IX.

Anent the payment of the fynes whilks ſhall aryſe vpon the decreits and ſentences of the Iuſtices of peace, letters of horning ſhalbe granted vpon a ſimple charge of fyeftine dayes, againſt the perſons decerned in any fynes for payment of the ſame fynes to the Collector, from the firſt day of Januar, to the laſt day of December ilk yeere. And that vpon production of the Acts of fynes: And no ſuſpenſion ſhalbe granted, bot vpon obedience of the decreet, and ſatis-faction of the charges of the Juſtices, at the modification of the Lords.

X.

It is ordeined that the Conſtables within euerie paroche ſall be executors of the Præcepts and warrands of the Iuſtices of peace.

XI.

That the Iuſtices of peace within euerie ſhyre cauſe ſufficient ſingle and double Aill be browne, and that they appoint viſitors for that effect, with conſent of the Baron, and ouer-Lord of the ground.

XII.

The KINGS Majeſtie remittes the conſideration of the travells of the Clerks, and officiars, to the diſcretion of the Iuſtices of peace, to be taken out of the reddieſt of the fynes, whill ſorder order be taken.

XIII.

That the Iuſtices of peace make and ſet doun Acts, againſt notorious Drunkards, and impoſe ſoumes vpon the contraveners according to their qualities: and that they vplift theſe ſoumes and imploy them vpon the Conſtables of the peace, accor ding to the diſcretion of the Benche.

XIIII.

Item that no letters of Caption ſhalbe granted againſt Iuſtices of peace, for apprehending of rebelles.

Apud Edinburgh xxvij die mensis Octobris, 1612.

THE LORDES OF SEcreet Counſell hauing red, hard and conſidered, the ſupplication giuen in to them in name of the Juſtices of peace within the whole ſhirefdomes of this kingdome. Anent the trouble faſherie and expenſes, where-vnto they are driuen be raiſing and vſing of letters, charges and executions, for payment of the fynes and vnlawes, aryſing vpon their decreits and ſentences: where-as the ſame decreits may be more redelie and with leſſe charges and expenſes execut be their awne precepts of poynding, direct to their awne Conſtables. Therefor the Lords of ſecreet Counſell, giues power, warrand and commiſſion to euerie Bench, To direct precepts of poynding vpon their awne decreets, to their Conſtables: vnder the ſigne and ſubſcription of their Clerk of court, for the due execution of their decreets and payment of ſick fynes, vnlaws, and ſowmes of money as are conteined in the ſame.